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## NOTICE OF EX PARTE

November 14, 2019

### By ECFS

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C., 20554

*Re: Expanding Flexible Use of the 3.7 to 4.2 GHz Band, GN Docket No. 18-122*

Dear Ms. Dortch:

On November 13, 2019, Hank Hultquist, Raquel Noriega, Neeti Tandon, Alex Starr,<sup>†</sup> David Wolter,<sup>†</sup> and Navid Motamed<sup>†</sup> of AT&T, Eric DeSilva of DLA Piper, and the undersigned met with Donald Stockdale, Matthew Pearl, Rebecca Schwartz,<sup>†</sup> Blaise Scinto,<sup>†</sup> Peter Daranco,<sup>†</sup> Thomas Derenge, Paul Powell,<sup>†</sup> Kamran Etemad, Anna Gentry, Jessica Greffenius, Susannah Larson,<sup>†</sup> Jeffrey Tignor,<sup>†</sup> and Janet Young of the Wireless Telecommunications Bureau.<sup>1</sup>

In the meeting, AT&T reiterated its view that the reallocation of the C-Band should occur as quickly as is reasonably practicable.<sup>2</sup> Because of the potential for legal challenges reflected in the record, AT&T argued for minimizing the threat of litigation by relying on established authority and fair and open processes. In particular, AT&T restated its view that the Federal Communications Commission (“Commission”) should immediately issue a Report and Order repurposing 300 MHz of spectrum from Fixed Satellite Service use to terrestrial broadband use, and establishing core policies for the sale of that spectrum, including the basic auction design and market structure reflected in the Consensus *Ex Parte* filed by a variety of carriers and the C-

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<sup>1</sup> Individuals designated with “†” were present telephonically.

<sup>2</sup> See, e.g., Letter from Michael P. Goggin, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 18-122 (filed Nov. 1, 2019). See also Comments of AT&T Services, Inc., GN Docket No. 18-122 (filed Oct. 29, 2018); Reply Comments of AT&T Services, Inc., GN Docket No. 18-122 (filed Dec. 11, 2018); Comments of AT&T Services, Inc., GN Docket No. 18-122 (filed July 3, 2019); Reply Comments of AT&T Services, Inc., GN Docket No. 18-122 (filed July 18, 2018).

band Alliance (“CBA”) on October 29, 2019.<sup>3</sup> To effect the repurposing of the spectrum, AT&T argued that the Commission should modify the satellite operators’ authorizations under Section 316 of the Act to add a terrestrial use component, but specify that those flexible use rights would have to be collectively assigned, within a stated period, through an auction process in order to, among other things, fund the transition of existing C-band users. AT&T contended that the technical rules for terrestrial flexible use, the specific procedures used in the auction, and the transition plan, should all be subject to further notice-and-comment and the ultimate resolution of those issues should carry the weight of the Commission’s enforcement authority. By relying on secondary market mechanisms, but still ensuring that a spectrum sale occurs in a fair, transparent, and open manner, the Commission would minimize possible challenges both under Section 309(j) and the sub-delegation doctrine. And, by adopting a transition plan that fully accounts for the costs of the transition, guarantees payment of those costs, and ensures C-band users that they can rely on the Commission for recourse in the event of disputes, the Commission would ensure that FSS offerings in the band are substantially the same, limiting challenges under Section 316. At the same time, those same transition rules, coupled with definitive technical rules, would offer auction participants the certainty they require regarding the products they would be buying.

Should any questions arise concerning this ex parte, please contact me at (202) 457-2055.

Sincerely,

/s/ Michael P. Goggin  
Michael P. Goggin

cc (via email):

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<sup>3</sup> See Letter from Hank Hultquist, AT&T Services, Inc. et al. to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 18-122 (filed Oct. 29, 2019).